

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CHAPEL HILLS COMMUNITY ASSOCIATION, INC.)	CIVIL ACTION FILE NO.:
)	_____
Plaintiff/Counterclaim)	
Defendant,)	
vs.)	JURY TRIAL DEMANDED
)	
TERRY EVANS,)	
)	
Defendant/Counterclaim)	
Plaintiff.)	

**NOTICE OF REMOVAL TO
THE UNITED STATES DISTRICT COURT**

COMES NOW, CHAPEL HILLS COMMUNITY ASSOCIATION, INC., plaintiff and counterclaim defendant in the above-styled civil action, and hereby files this Notice of Removal pursuant to Fed. R. Civ. P. 81(c) and 28 U.S.C. §§ 1331, 1441 and 1446, respectfully showing as follows:

FACTUAL AND PROCEDURAL BACKGROUND

1.

On May 1, 2023, Plaintiff Chapel Hills Community Association, Inc. filed a civil action against defendant Terry Evans in the Superior Court of Douglas County, Georgia, Case No. 23CV00694 for the recovery of past due homeowners association assessments and other amounts owed by Evans. The Superior Court of Douglas

County, Georgia is located within the Atlanta Division of the United States District Court for the Northern District of Georgia.

2.

The Association has not yet perfected service of the Complaint on Evans, but Evans filed his Answer and Counterclaim on or about June 30, 2023.

3.

In his Counterclaim, Evans brings a claim under state law for breach of contract alleging that the Association did not evenly enforce the terms of the Declaration or impose fines for violations of same. (Answer, p. 5). Evans also brings claims under the federal Fair Housing Act for race and age discrimination alleging that the Association did not evenly enforce the terms of the Declaration or impose fines for violations of same. (Id., pp. 5-7).

4.

The Association's Notice of Removal is timely filed within thirty (30) days of receipt of Evans' Counterclaim, as required by 28 U.S.C. § 1446(b).

5.

Venue is proper for removal to this district pursuant to 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action was pending.

6.

Further, as required by 28 U.S.C. § 1446(a), the entire record in the Superior Court action, including copies of all process, pleadings and orders filed as of this date, as well as a copy of the court's docket sheet, are attached to and filed contemporaneously herewith as Exhibit "A."

BASIS FOR REMOVAL

7.

The Association incorporates by reference as if fully set forth herein the preceding paragraphs 1 through 6 of this Notice of Removal.

8.

This Court has original jurisdiction in any action involving a federal question of law under the laws of the United States. See 28 U.S.C. § 1331.

9.

This is a civil action over which this Court has original jurisdiction over Evans' counterclaims for race and age discrimination under the provisions of 28 U.S.C. § 1331 because such claims arise out of the federal Fair Housing Act, 42 U.S.C. § 3601, *et seq.* as cited by Evans in his counterclaims.

10.

Because Evans has asserted claims involving a federal question of law, this action may be removed to this Court by defendant pursuant to the provisions of 28 U.S.C. §1441.

11.

The Association's claims and Evans' breach of contract claim may also be removed to this Court by the Association pursuant to the provisions of 28 U.S.C. §1441.

CONCLUSION

12.

The Association incorporates by reference as if fully set forth herein the preceding paragraphs 1 through 11 of this Notice of Removal.

13.

As required by 28 U.S.C. § 1446(d), defendant has given prompt written notice of this Notice of Removal to Evans, through his counsel, by mailing a copy of this Notice **via Certified Mail, Return Receipt Requested, Receipt No. 9171 9690 0935 0270 4098 69.**

14.

The Association will also promptly file this Notice of Removal with the Clerk of the Superior Court of Douglas County, Georgia as required by 28 U.S.C. § 1446(d), a copy of which is attached hereto as Exhibit “B.”

15.

The Association reserves the right to amend or supplement this Notice of Removal in accordance with the Federal Rules of Civil Procedure and other applicable law.

16.

The Association reserves all defenses to the underlying action.

17.

The undersigned has read this Notice of Removal, and to the best of the undersigned’s knowledge, information and belief, formed after reasonable inquiry, it is well-grounded in fact and is warranted by existing law, and it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

WHEREFORE, The Association respectfully requests that this action now pending in the Superior Court of Douglas County, Georgia be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

DEFENDANT DEMANDS A TRIAL BY JURY.

Respectfully submitted, this 31st day of July, 2023.

**CRUSER, MITCHELL, NOVITZ,
SANCHEZ, GASTON & ZIMET, LLP**

/s/ Sunshine R. Nasworthy

Sunshine R. Nasworthy
Georgia Bar No. 564888
Email: snasworthy@cmlawfirm.com
Direct Dial: 678-684-2136

/s/ Sean Keenan

Sean Keenan
Georgia Bar No. 523871
Email: skeenan@cmlawfirm.com
Direct Dial: 678-684-2154
(Attorneys for Plaintiff on the counterclaim)

275 Scientific Drive
Suite 2000
Peachtree Corners, GA 30092

CERTIFICATE OF COMPLIANCE WITH L.R. 7.1

The undersigned attests that this document was prepared in Times New Roman, 14-point font that complies with this Court's Rules.

This 31st day of July, 2023.

**Cruser, Mitchell, Novitz, Sanchez,
Gaston & Zimet, LLP**

/s/ Sunshine R. Nasworthy _____

Sunshine R. Nasworthy
Georgia Bar No. 564888

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day filed the within and foregoing
NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT
with the Clerk of Court using the CM/ECF system.

I FURTHER CERTIFY that I have this day served a copy of the above-referenced pleading, via Certified U.S. Mail # **9171 9690 0935 0270 4098 69**, upon the following:

David A. Wilson
Payum James Hamraie
THE WILSON FIRM, LLC
12461 Veterans Memorial Hwy, #580
Douglasville, GA 30134
da@wilsonfirmatlanta.com
james@wilsonfirmatlanta.com
(*Attorneys for Defendant*)

Victor J. Harrison
HARRISON LAW, LLC
P.O. Box 1495
Douglasville, GA 30133
victorharrison@westgalaw.com
(*Attorney for Plaintiff*)

Respectfully submitted, this 31st day of July, 2023.

**Cruser, Mitchell, Novitz, Sanchez,
Gaston & Zimet, LLP**
/s/ Sunshine R. Nasworthy
Sunshine R. Nasworthy
Georgia Bar No. 564888